

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

SURGICORE OF JERSEY CITY, LLC,

Plaintiff,

vs.

ANTHEM LIFE & DISABILITY INSURANCE,

Defendant.

Civil Action No. _____

NOTICE OF REMOVAL

Without waiving any defenses, Defendant Anthem Life & Disability Insurance Company (“Defendant” or “Anthem”) hereby removes this civil action, pending in the Supreme Court of the State of New York, County of Queens, Index No. 706811/19 (the “State Court Action”), to the United States District Court of the Eastern District of New York, pursuant to 28 U.S.C. §§ 1441 and 1446, as amended, and in accordance with 28 U.S.C. § 1332, on the following grounds:

1. Plaintiff Surgicore of Jersey City (“Plaintiff”) commenced the State Court Action against Defendant by filing a complaint in the Supreme Court of the State of New York, County of Queens on or about April 8, 2019 (the “Complaint”).

2. Defendant was served with the Summons and Complaint on May 13, 2019.

3. Defendant is timely filing this Notice of Removal within thirty (30) days of the receipt of the Summons, in accordance with 28 U.S.C. § 1446(b).

4. Diversity jurisdiction exists in this matter pursuant to 28 U.S.C. § 1332, which provides that the district court has original jurisdiction of “all civil actions where the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between (1) citizens of different States....” 28 U.S.C. § 1332(a). Plaintiff, a citizen of the State of New

Jersey, seeks damages in excess of \$97,973.80 from Defendant, a citizen of the State of New York. This Court has original subject matter jurisdiction over the entire action under 28 U.S.C. § 1441(b) and (c), which provide for removal of any civil action based on diversity of citizenship, and allow removal of an entire case even when removable claims are joined with non-removable claims.

5. Venue of this removal is proper under 28 U.S.C. § 1441(a) because this Court is the United States District Court for the district corresponding to the place where the State Court Action is pending.

6. Removal of this case to the United States District Court for the Eastern District of New York does not constitute a waiver by Defendant of its rights to seek dismissal of this lawsuit.

7. As required by 28 U.S.C. § 1446(a), a copy of all process, pleadings, and orders are annexed hereto. (*See Exhibit A*).

8. As required by 28 U.S.C. § 1446(d), Defendant will provide written notice of this Notice of Removal to counsel of record for Plaintiff and will promptly file a copy of this Notice of Removal with the Clerk of the Supreme Court of the State of New York, County of Queens. (*See Exhibit B*).

**THIS CASE IS REMOVABLE BECAUSE IT MEETS ALL REQUIREMENTS FOR
DIVERSITY OF CITIZENSHIP**

9. As set forth in Paragraph 4 of this Notice of Removal, Plaintiff is a health service provider licensed to practice in the State of New Jersey, with a principal place of business in New Jersey. *See* Compl. ¶ 4. Upon information and belief, Plaintiff is a citizen of the state of New Jersey.

10. As set forth in Paragraph 4 of this Notice of Removal, Anthem is a New York corporation, with its principal place of business located in New York, New York. *See* Compl. ¶ 3. Anthem is a citizen of the state of New York and is not a citizen of the state of New Jersey.

11. Plaintiff specifically alleges damages in the amount of \$97,973.80. *See* Compl. ¶
18. Thus, the amount in controversy, exclusive of interest and costs, exceeds the sum or value of \$75,000.

12. Based on the foregoing, the action is a civil action over which this District Court would have original jurisdiction pursuant to 28 U.S.C. § 1332 because Plaintiff is diverse from all defendants and the amount in controversy exceeds \$75,000, and which therefore may be removed to this District Court pursuant to 28 U.S.C. § 1441.

13. By reason of the foregoing, this Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332. As an action of a civil nature involving citizens of different states with an amount in controversy in excess of \$75,000, this action may be removed to this Court pursuant to 28 U.S.C. § 1441(b) and (c).

14. To the extent that any claim at issue in this action does not meet the requirements of 28 U.S.C. § 1332, this Court has supplemental jurisdiction over any otherwise non-removable claims or causes of action and may determine all issues therein.

WHEREFORE, Defendant prays this Court will remove this action from the Supreme Court of the State of New York, County of Queens, and requests that further proceedings be conducted in this Court as provided by law.

Dated: New York, New York
June 12, 2019

Respectfully submitted,

TROUTMAN SANDERS LLP

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